

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	2:16-cr-00070-JDL
)	
RYAN BENOIT,)	
)	
Defendant.)	

**ORDER ACCEPTING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

In July 2016, Ryan Benoit pled guilty to one count of possession with intent to distribute cocaine, in violation of 21 U.S.C.A. § 841(a)(1), (b)(1)(C) (West 2020), and one count of unlawful possession of a firearm, in violation of 18 U.S.C.A. §§ 922(g)(1), 924(a)(2) (West 2020) (ECF Nos. 1, 18, 28), and in November 2016, I sentenced him to 90 months in the Bureau of Prisons' custody (ECF Nos. 26, 28). Benoit now seeks compassionate release under 18 U.S.C.A. § 3582(c)(1)(A) (West 2020) (ECF No. 43).

Benoit filed his motion for compassionate release on August 14, 2020,¹ asserting that extraordinary and compelling reasons support granting him release because he has a medical condition that places him at a heightened risk of severe illness from COVID-19. United States Magistrate Judge John C. Nivison submitted a Recommended Decision addressing the motion on October 14, 2020 (ECF No. 54),

¹ In June 2020, Benoit filed a motion seeking release for non-COVID-related reasons (ECF No. 35), which I construed as a motion for compassionate release under § 3582(c)(1)(A) and denied on August 13, 2020 (ECF Nos. 37, 42).

pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2020) and Fed. R. Civ. P. 72(b), recommending that the motion be denied. Benoit filed an Objection on October 26, 2020 (ECF No. 58).

I have reviewed and considered the Recommended Decision, together with the entire record, and have made a *de novo* determination of all matters adjudicated by the Magistrate Judge. I concur with the recommendations of the Magistrate Judge for the reasons set forth in his Recommended Decision and determine that no further proceeding is necessary.

I do, however, write briefly to address Benoit's argument regarding his medical condition. In his motion, and again in his objection, Benoit notes that two blood tests from 2018 revealed that he had an elevated white blood cell count, which Benoit argues is indicative of undiagnosed leukemia. Benoit's medical records reveal that in 2019, the condition was labeled as "[r]esolved," and Benoit has not offered any additional evidence that would support a finding that he has leukemia. The Magistrate Judge therefore concluded, and I agree, that Benoit has not established extraordinary and compelling reasons supporting compassionate release. However, this decision will be made without prejudice. Benoit is free to renew his request for compassionate release if he obtains additional evidence showing that he has leukemia or another medical condition that places him at a higher risk of severe illness from the virus.²

² Benoit also asserts that the BOP denied his request for a blood test in 2020, and asks the Court to order the BOP to test him for "some form of cancer or other chronic medical illnesses." ECF No. 58 at 4. However, a motion for compassionate release is not the vehicle for an incarcerated individual to obtain administrative or judicial review of the alleged denial of medical care or services.

It is therefore **ORDERED** that the Recommended Decision (ECF No. 54) of the Magistrate Judge is hereby **ACCEPTED** and Benoit's Motion for Compassionate Release (ECF No. 43) is **DENIED** without prejudice.

SO ORDERED.

Dated this 4th day of November, 2020.

/s/ Jon D. Levy
CHIEF U.S. DISTRICT JUDGE